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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

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THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN ORTIZ CONTRERAS,

Defendant and Appellant.

C063291

(Super. Ct. No.  
08F7459)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436.<sup>1</sup> Having reviewed the record as required by *Wende*, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

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<sup>1</sup> Counsel filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Defendant Juan Ortiz Contreras began repeatedly molesting the victim when she was approximately 11 years old. He was charged in an 11-count information with lewd acts with a child under the age of 14 (Pen. Code, § 288, subd. (a) -- counts 1 through 6 and 10),<sup>2</sup> forcible lewd acts upon a child (§ 288, subd. (b) -- counts 7 and 11), providing lewd material to a minor (§ 288.2, subd. (a) -- count 8), and aggravated sexual assault of a child (§ 269, subd. (a)(4) -- count 9). It was further alleged that defendant had engaged in substantial sexual conduct while committing counts 3, 6, 9, 10, and 11. (§§ 288, 1203.066, subd. (a)(8).)

Prior to trial, defendant pled no contest to counts 1, 2, and 3 in exchange for a stipulated prison term of 12 years. The remaining counts and allegations were dismissed with a *Harvey* waiver.<sup>3</sup>

In accordance with the plea, the trial court sentenced defendant to 12 years in state prison, consisting of the upper term of eight years on count 1 and consecutive two-year terms (one-third the middle term) on counts 2 and 3. Defendant was ordered to pay \$1,440 to the restitution fund, a \$2,400 restitution fine, and a \$2,400 parole revocation fine which was suspended pending successful completion of parole. (§§ 1202.4,

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<sup>2</sup> Further undesignated statutory references are to the Penal Code.

<sup>3</sup> *People v. Harvey* (1979) 25 Cal.3d 754.

1202.45.) He also received 264 actual days and 39 conduct days, for a total of 303 days of custody credit. (§ 2933.1.)

Defendant appeals. He did not obtain a certificate of probable cause. (§ 1237.5.)

The recent amendments to section 4019 do not operate to modify defendant's entitlement to credit, as he was required to register as a sex offender, committed for a serious or violent felony, and/or had a prior conviction(s) for a serious or violent felony. (§ 4019, subds. (b)(1), (2) & (c)(1), (2); Stats. 2009, 3d Ex. Sess., ch. 28, § 50.)

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

#### DISPOSITION

The judgment is affirmed.

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NICHOLSON, J.

We concur:

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SIMS, Acting P. J.

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RAYE, J.